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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,393	03/22/2005	Christoph Studer	2004_1525A	5713

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EXAMINER

LEE, JINHEE J

ART UNIT. PAPER NUMBER

2831

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/509,393	Applicant(s) STUDER, CHRISTOPH	
	Examiner Jinhee J. Lee	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The date of the PCT/H03/00211 is incorrect. The date should be 2003 not 2004.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plastic insulation of claim 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Abstract needs to be on separate paper.

Claim Objections

5. Claims 1-21 are objected to because of the following informalities:

Claim 1 line 6, the phrase "line there" has a grammatical error. Examiner suggests, "line, there" instead to correct the grammatical error.

Claims 2-21, the word "characterised" has a spelling error. Examiner suggests "characterized" instead to correct.

Claim 5 and 10-12 line 2, the phrase "line a fleece" has a grammatical error. Examiner suggests, "line is a fleece" instead to correct the grammatical error.

Claims 6 and 13-16 line 2, the phrase "the three electrical cables" has an error. Examiner suggests "the three intertwined electrical cables" instead to avoid insufficient antecedent rejection.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "and/or" in line 2,3,6 and 7. This is confusing. Examiner suggests, "or" instead to clarify and distinctly claim the subject matter. This limitation is also stated in claim 3 line 2, claim 5 line 2, claim 8 line 2, claim 10 line 2, claim 11 line 2 and claim 12 line 2.

Claim 2 recites the limitation "an extruded plastic insulation" in line 2. This is confusing. Is this same or different than insulation of claim 1 line 6?

Claims 3 and 8, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 4 and 9 recites the limitation "are embedded which are" in line 2. This is confusing. Clarify embedded in what? For the purposes of examination, examiner will interpret as "embedded in the insulation".

Claims 5 and 10-12 recites the limitation "a fleece tape (7)" in line 2. This is confusing. Claim 1 states that item 7 is "a protective sheath (7)". Clarify.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4, 6-9, 13-15, 17-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Donecker et al. (3772454).

Re claim 1, Donecker et al. discloses a three-conductor cable comprising three intertwined electrical cables (unnumbered, strands), each with one conductor (4 for example) which has a current lead (4) and a neutral and/or return line (6 for example), wherein the neutral and/or return line of each electrical cable is formed by a number of component conductors (6) which are distributed concentrically about the current lead (4), between the current lead (4) and the distributed component conductors (6) of the neutral and/or return line, there is an insulation (10 for example) and there is also a protective sheath (32 for example) applied on top of the neutral and/or return line. (see figures 1, 3 and 5).

Re claim 2, Donecker et al. discloses that the current lead of each electrical cable is encased in a plastic insulation. Donecker et al. does not disclose that the insulation is extruded, however, the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, the limitation of "extruded" has not been given patentable weight.

Re claims 3 and 8, Donecker et al. discloses a three-conductor cable, characterized in that embedded in each concentrically-arranged neutral and/or return line, formed for example by eight component conductors, are dummy conductors (one or more of 6 for example) and control conductors (one or more of 6 for example).

Regarding the limitation of "which are coupled for control, monitoring, measurement and

command purposes”, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Re claims 4 and 9 (as best understood), Donecker et al. discloses a three-conductor cable, characterized in that in each current lead (4), control conductors (6) are embedded in the insulation Regarding the limitation of “which are coupled for control, monitoring, measurement and command purposes”, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Re claims 6 and 13-15, Donecker et al. discloses a three-conductor cable, characterized in that the three electrical cables (unnumbered) are held together by a sheath (32 for example) which encases them (see figures 3 and 5).

Re claims 7, 17-19 and 21, Donecker et al. discloses a cable as disclosed. Regarding the preamble “High-frequency electrical cable for power transmission at a frequency of at least 50 MHZ”, a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951). Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art

apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5, 10-12, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donecker et al. in view of Huetner (EP 577233).

Re claims 5, 10, 11 and 12, Donecker et al. substantially discloses a three-conductor cable as set forth in claims 1, 2, 3 and 4 respectively above. Donecker et al. does not explicitly disclose that over each neutral and/or return line a fleece tape and over this a protective sheath preferably made from plastic is applied. However, Huetner teaches of a cable with a fleece tape and over this a protective sheath (foam) preferably made from plastic applied (see abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the a fleece tape and over this a protective sheath as taught by Huetner applied on the cable of Donecker et al. in order to provide water swellable characteristics.

Re claim 16, note that the device of Donecker et al. discloses a three-conductor cable, characterized in that the three electrical cables (unnumbered) are held together by a sheath (32 for example) which encases them (see figures 3 and 5).

Re claim 20, note that the device of Donecker et al. discloses a cable as disclosed. Regarding the preamble "High-frequency electrical cable for power transmission at a frequency of at least 50 MHZ", a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951). Furthermore, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M, T, Th and F at 6:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A Reichard can be reached on 571-272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jinhee J Lee
Patent Examiner
Art Unit 2831

A handwritten signature in black ink, appearing to be 'Jinhee J Lee', written over the printed name and title.

jjl